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110TH CONGRESS
1ST SESSION

H. R. 2520

To amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of certain medical mobility devices approved as class III medical devices.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2007

Mr. LANGEVIN (for himself, Mr. RAMSTAD, Mr. FERGUSON, Mr. CAMP of Michigan, Mrs. BOYDA of Kansas, Ms. SHEA-PORTER, Mr. NUNES, Mr. ISSA, Mr. HINCHEY, Mr. JINDAL, Mr. COHEN, Mr. FARR, Mr. SARBANES, and Mr. ELLISON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of certain medical mobility devices approved as class III medical devices.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. COVERAGE OF CLASS III MEDICAL MOBILITY**
 2 **DEVICES.**

3 (a) COVERED BENEFIT.—Section 1861(s)(2) of the
 4 Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

5 (1) in subparagraph (Z), by striking “and” at
 6 the end;

7 (2) in subparagraph (AA), by inserting “and”
 8 at the end; and

9 (3) by adding at the end the following new sub-
 10 paragraph:

11 “(BB) class III medical mobility devices (as de-
 12 fined in subsection (ccc)(1)) furnished to a class III
 13 medical mobility-device eligible individual (as defined
 14 in subsection (ccc)(2));”.

15 (b) DEFINITIONS.—Section 1861 of such Act (42
 16 U.S.C. 1395x) is amended by adding at the end the fol-
 17 lowing new subsection:

18 “Class III Medical Mobility Device; Class III Medical
 19 Mobility-Device Eligible Individual

20 “(ccc)(1) The term ‘class III medical mobility device’
 21 means a medical mobility device that has been approved
 22 as a class III medical device pursuant to a premarket ap-
 23 proval application under the Federal Food, Drug, and
 24 Cosmetic Act and that—

25 “(A) is able, among other functions—

1 “(i) to ascend and descend stairs using a
2 climbing and descending function;

3 “(ii) to traverse different terrain and var-
4 ious obstacles (including uneven terrain, curbs
5 of 5 inches in height, grass, gravel, and other
6 soft surfaces) using a 4-wheel drive function;
7 and

8 “(iii) to provide mobility in a seated posi-
9 tion at an elevated height using a balance func-
10 tion;

11 “(B) has been prescribed for a class III medical
12 mobility-device eligible individual (as defined in
13 paragraph (2)) by the individual’s treating physician
14 (as defined in subsection (r)(1)) for an approved in-
15 dication of the class III medical mobility device; and

16 “(C) is only dispensed after an assessment of
17 the class III medical mobility-device eligible indi-
18 vidual has been completed by a health care profes-
19 sional specified in paragraph (3) who has success-
20 fully completed training in making such assessments
21 under standards specified by the Secretary in con-
22 sultation with representatives of appropriate indus-
23 try and medical organizations.

24 “(2) The term ‘class III medical mobility-device eligi-
25 ble individual’ means, with respect to a class III medical

1 mobility device, an individual who, at the time the pre-
2 scription for the device is written, meets each of the fol-
3 lowing requirements:

4 “(A) The individual has a functional limitation
5 of mobility that hinders the individual’s ability to
6 perform mobility-related activities of daily living.

7 “(B) The use of the class III medical mobility
8 device with respect to the individual is for uses of
9 the device that have been approved by the Food and
10 Drug Administration for the device.

11 “(C) The individual demonstrates sufficient
12 cognitive and physical ability for the proper and safe
13 operation of the device (such as sufficient use of one
14 upper extremity and the ability to dial a push button
15 telephone or operate a hand operated joystick) under
16 such medical standards as the Secretary may speci-
17 fy.

18 “(D) The individual meets drivers licensing cri-
19 teria established in 1996 by the Epilepsy Founda-
20 tion of America.

21 “(E) The individual is not a resident of an in-
22 stitution that meets the requirements of subsection
23 (e)(1) or section 1819(a)(1).

24 “(F) The individual has completed a com-
25 prehensive training program (that meets standards

developed by the Secretary in consultation with appropriate industry representatives) on the safe operation of the class III medical mobility device and its functions.

“(G) The individual was initially entitled to benefits under part A of this title by reason of section 226(b).

“(H) The residence of the individual—

“(i) has stairs that meet the conditions of use of the class III medical mobility device for a stair as indicated in the labeling of the device; and

“(ii) does not have a mechanical method to ascend or descend such a stair or stairs (such as an elevator or such other mechanical methods as the Secretary may specify).

“(3) A health care professional specified in this paragraph is any of the following:

“(A) A physician (as defined in subsection (r)(1)).

“(B) A physician assistant.

“(C) A nurse practitioner.

“(D) A qualified physical therapist.

“(E) A qualified occupational therapist.”.

(c) CONFORMING AMENDMENTS.—

1 (1) PROVISION OF CLASS III MEDICAL MOBILITY
 2 DEVICE ONLY TO CLASS III MEDICAL MOBILITY-DE-
 3 VICE ELIGIBLE INDIVIDUAL; MEDICAL NECESSITY.—
 4 Section 1862 of such Act (42 U.S.C. 1395y) is
 5 amended—

6 (A) in subsection (a)(1)—

7 (i) in subparagraph (M), by striking
 8 “and” at the end;

9 (ii) in subparagraph (N), by striking
 10 the semicolon at the end and inserting “,
 11 and”; and

12 (iii) by inserting after subparagraph
 13 (N) the following new subparagraph:

14 “(O) in the case of a class III medical mo-
 15 bility device (as defined in paragraph (1) of sec-
 16 tion 1861(ecc)), which is furnished other than
 17 to a class III medical mobility-device eligible in-
 18 dividual (as defined in paragraph (2) of such
 19 section);” and

20 (B) by adding at the end the following new
 21 subsection:

22 “(n) CLARIFICATION OF COVERAGE OF AND PAY-
 23 MENT FOR ALL FUNCTIONS OF CLASS III MEDICAL MO-
 24 BILITY DEVICES.—In the case of a class III medical mo-
 25 bility device (as defined in section 1861(ecc)(1)) furnished

1 to a class III medical mobility-device eligible individual,
2 each function of such device, including the functions de-
3 scribed in subparagraph (A) of such section, are deemed
4 for purposes of subsection (a)(1), to be reasonable and
5 necessary for the treatment of an illness or injury or to
6 improve the functioning of a malformed body member.”.

7 (2) PAYMENT IN CONNECTION COVERED ITEMS;
8 PURCHASE AGREEMENT OPTION; MAINTENANCE.—
9 Section 1834(a) of such Act (42 U.S.C. 1395m(a))
10 is amended—

11 (A) in paragraph (1)(B)(ii), by inserting
12 “and (22)” after “(7)”;

13 (B) in paragraph (13), by inserting before
14 the period at the end the following: “, and also
15 includes a class III medical mobility device (as
16 defined in section 1861(ccc)(1))”; and

17 (C) by adding at the end the following new
18 paragraph:

19 “(22) PAYMENT FOR CLASS III MEDICAL MOBIL-
20 ITY DEVICES.—

21 “(A) IN GENERAL.—Subject to the sub-
22 paragraph (B), in the case of a class III med-
23 ical mobility device (as defined in section
24 1861(ccc)(1)), the provisions of paragraph (7)
25 (including the option for a purchase agreement

under subparagraph (A)(iii) of such paragraph shall apply to such device under this paragraph in the same manner as those provisions apply to a covered item under paragraph (7).

“(B) PAYMENT FOR ALL FUNCTIONS OF CLASS III MEDICAL MOBILITY DEVICES.—In the case of a class III medical mobility device, payment under this paragraph for such device shall be made taking into account all functions of such device, consistent with section 1862(n).”.

(3) REQUIREMENT FOR FACE-TO-FACE ENCOUNTER WITH A PHYSICIAN AND FOR WRITTEN PRESCRIPTION.—Clause (iv) of section 1834(a)(1)(E) of such Act (42 U.S.C. 1395m(a)(1)(E)) is amended—

(A) in the heading, by inserting “AND CLASS III MEDICAL MOBILITY DEVICES” after “WHEELCHAIRS”; and

(B) by adding at the end the following: “In the case of a covered item consisting of a class III medical mobility device (as defined in paragraph (1) of section 1861(eee)) for a class III medical mobility-device eligible individual (as defined in paragraph (2) of such section), payment may not be made for such item under this

1 part unless a physician (as defined in section
2 1861(r)) has conducted such examination and
3 written such prescription for the item.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to devices furnished on or after
6 the date of the enactment of this Act.

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